THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION Nos.21772 and 24298 of 2006

Dated:23.02.2007

Between:

Pasham Rami Reddy and others.

…Petitioners

and

The Govt. of A.P., rep.by its Principal Secretary, and others.

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION Nos.21772 and 24298 of 2006

COMMON ORDER:

These two Writ Petitions can be disposed of by a common order as in both the matters challenge is to similar orders passed by the Government of Andhra Pradesh, the Chief Engineer, Panchayat Raj, and the Superintendent Engineer. These public functionaries are arrayed as respondents 1 to 3 respectively and the fourth respondent is the contractor, to whom the work "Package No.A.P.1307 (R/f Rejapet thanda to Venkapally thanda (PART-B))" in PR Division, Nalgonda, estimated at a cost of Rs.13.89 lakhs was sanctioned. Be it also noted, by impugned Government Order, being G.O.Ms.No.391, dated 23.12.2004, the Government of Andhra Pradesh accorded Revised Administrative Sanction (RAS) for 1483 works at an estimated cost of Rs.27143.07 lakhs including rice component under Prime Minister Grameena Sadak Yojana (PMGSY). Pursuant thereto, it appears, after calling for tenders, by order dated 28.02.2006, the third respondent permitted the Executive Engineer to mark out the work, and entrust the work to the Contractor, the fourth respondent herein.

There is one petitioner in W.P.No.21772 of 2006, whereas there are thirty two petitioners in W.P.No.24298 of 2006. All of them are villagers of Venkapally Thanda, Marrigudem Mandal in Nalgonda District. They claim that they are owners of agricultural lands in

Survey Nos.10 to 16, 44 to 46, 65, 96, 99, 106, 108, 110, 111, 113, 125, 127, 130, 133, 136 and 137. They allege that an extent of Acs.5.20 guntas in these survey numbers belonging to them ranging from an extent of Ac.0.04 guntas to Ac.1.01 gunta, is being taken for laying down the road under PMGSY without following due process of law, and without acquiring the land. They also allege that if an enquiry is conducted by issuing a notice to them they would be able to demonstrate their case. They also allege that when the fourth respondent made attempts to lay the road from Rejapet thanda to Venkapally thanda, Pasham Ram Reddy (petitioner in W.P.No.21772 of 2006) filed O.S.No.21 of 2006 on the file of the Court of the Senior Civil Judge, Nalgonda. In spite of the same, the respondents are interfering with the possession of the petitioners, and therefore, they filed the present Writ Petitions. Similar contentions are raised in both the Writ Petitions.

This Court granted interim orders of *status quo*. Respondents 1 to 3 as well as respondent No.4 filed separate miscellaneous petitions for vacating the interim orders. At this interlocutory stage itself, the matter is heard finally and is being disposed of by this common order with the consent of learned Counsel for both the parties.

In the counter affidavit filed by respondents 1 to 3 while admitting the sanction of work by the Government and entrustment of work to the fourth respondent, the allegation that the petitioners' land is being taken for laying the road is denied. It is stated that only upgradation of work to BT standards has been taken up, and that the petitioners' land has not been utilized. It is stated that the road in question is inter district road connecting Nalgonda and Ranga Reddy Districts. The relevant paras in the counter affidavit are as under.

> In reply to para 6 of the affidavit it is submitted that it is not correct to say that even cart track or path way is not demarked in the suit schedule land. The petitioners are well known that it is an existing road and the buses are plying on the road from Ibrahimpatnam, Mall etc., from decades and road boundaries were fixed. Now only ugpradation of road to BT standards on the existing road work is taken up. The trench has been dug within the road boundaries for widening embankment of road. The revenue authorities have been addressed to conduct the survey. The survey report clearly shows that there is an existing road and the survey number mentioned in the affidavit i.e., Sy.No.11 to 16 are wet lands. The road in this reach is earmarked in the Thari Naksha of Venkapally Village as 33'-0 road. The other Sy.No.125, 130

and 133 are wet land and road is earmarked in Kushki Naksha of Venkepally as pathway (dotted line) and the road is passing through the said Sy.No.125, 130 and 133.

In reply to para 7 and 8 of the affidavit it is submitted that the question of issuing notice for acquiring any land does not arise since the proposed work is only upgradation on the existing old road on which traffic is running for a long time and the road is not passing through the land mentioned in Sy.Nos which is evident from the village map (Copy enclosed). Therefore, the contention of the petitioners that there is no existing path and the upgradation is nothing but a lying of new road is utter false hood and upgradation cannot be termed as violation of constitutional rights of the petitioners. This work is taken up under PMGSY (Central Government Scheme) and there is no question of initiating land acquisition proceeding when there is only upgradation of existing road is taken up…

The petitioners have filed reply affidavits denying the counter averments. However, having regard to the fact that the upgradation work is taken up under PMGSY, this Court observes that if for any reason, the upgradation work is taken up with reference to the land of the petitioners other than the existing roads, the respondents have to necessarily follow due process of law. If any of the petitioners disputes that the upgradation work also affects his rights, he may give a representation to the District Collector, who shall conduct enquiry and take necessary action in the matter.

These Writ Petitions, with the above observations, are accordingly disposed of. No costs.

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(V.V.S.RAO, J)

23.02.2007
vs